

***United States Court of Appeals  
for the Second Circuit***



**SUPPLEMENTAL  
APPENDIX**



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74-1261

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(41577)

**United States Court of Appeals**

FOR THE SECOND CIRCUIT

SAMUEL TITO WILLIAMS,

*Plaintiff-Appellee,*

—against—

THE CITY OF NEW YORK,

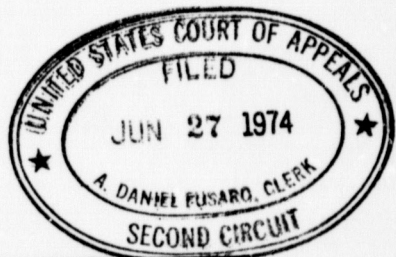
*Defendant-Appellant.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

**SUPPLEMENTAL APPELLANT'S APPENDIX**

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**INDEX TO  
SUPPLEMENTAL APPELLANT'S APPENDIX**

	PAGE
Order of Mulligan, J. ....	119a
Notice of Motion .....	121a
Affidavit of Joseph P. Napoli .....	123a
Transcript of Proceedings .....	126a
People's Witnesses:	
Donald Graff	
Direct .....	126a
Cross .....	129a
Redirect .....	133a
Recross .....	135a
Dr. Everett Corradini	
Recalled	
Direct .....	144a
William S. Perlman	
Cross .....	144a



**Order of Mulligan, J.**

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

74-1261

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the 18th day of June, one thousand nine hundred and seventy-four.

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SAMUEL TITO WILLIAMS,

*Plaintiff-Appellee,*

—against—

THE CITY OF NEW YORK,

*Defendant-Appellant.*

---

IT IS HEREBY ORDERED that the motion made herein by counsel for the appellee by notice of motion dated May 28, 1974 to require appellant to include additional parts of the transcript in the appendix; to file certain exhibits as part of the record and include certain parts thereof in the appendix and to extend the time to file a brief until such time as the appendix is completed be and it hereby is granted.

*Order of Mulligan, J.*

IT IS FURTHER ORDERED that appellant shall, by June 25, 1974, obtain certification of Exhibit A from the clerk of the district court and transmission thereof to this court for inclusion in the record on appeal, and that appellant shall, by June 25, 1974, file a supplemental appendix containing the parts of the record requested by appellee. Appellee shall advance the cost of producing the supplemental appendix. Appellee shall have an extension of time in which to file his brief to and including July 13, 1974.

WILLIAM HUGHES MULLIGAN,  
*Circuit Judge.*

**Notice of Motion**

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

---

SAMUEL TITO WILLIAMS,

*Plaintiff-Appellee,*

—against—

THE CITY OF NEW YORK,

*Defendant-Appellant.*

---

SIR :

PLEASE TAKE NOTICE that upon the annexed affidavit of JOSEPH P. NAPOLI, sworn to the 28th day of May, 1974, the plaintiff-appellee will move this Court, at the United States Courthouse, located at Foley Square, New York, New York, on the 31st day of May, 1974 at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order pursuant to Rule 30 of the Federal Rules of Appellate Procedure and Section 11 of the Rules of the United States Court of Appeals, requiring the appellant to include additional parts of the transcript and extending the time of the appellee to serve and file his brief until compliance with said rules, and for such other and further



122a

*Notice of Motion*

relief in the premises as to the Court may seem just and proper.

Dated: New York, May 28, 1974

Yours etc.

HARRY H. LIPSIG

*Attorney for Plaintiff-Appellee*

Office & P. O. Address

100 Church Street

Manhattan, New York 10007

732-9000

To:

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New York, New York

**Affidavit of Joseph P. Napoli**

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

---

SAMUEL TITO WILLIAMS,

*Plaintiff-Appellee,*

—against—

THE CITY OF NEW YORK,

*Defendant-Appellant.*

---

STATE OF NEW YORK,

COUNTY OF NEW YORK, ss.:

JOSEPH P. NAPOLI, being duly sworn, deposes and says:

I am an attorney and counsellor at law and associated with Harry H. Lipsig, attorney for plaintiff-appellee in the above entitled matter.

I make this affidavit in support of the within application to require appellant to include additional parts of the transcript in the appendix in the above entitled action and extending appellee's time to serve and file his brief until compliance with the Federal Rules of Appellate Procedure and the rules of this Court.

Judgment was entered in the above entitled action on January 30, 1973 with the court filing its opinion with respect to the City of New York's motion to set aside the jury's verdict on November 15, 1973.

*Affidavit of Joseph P. Napoli*

On December 14, 1973 the defendant, City, filed its notice of appeal.

On January 22, 1974 the appellee stipulated with the appellant to extend its time to docket the appeal and later stipulated with the appellant to extend the appellant's time to serve and file the appendix and brief on May 8, 1974.

The appellant, City of New York, has not complied with Section 11 of the Rules of the United States Court of Appeals.

Section 11(b) provides that in the absence of agreement, the appellant shall not later than 15 days after the filing of a notice of appeal serve on the appellee a designation of the exhibits he considers to be necessary.

No such procedure was followed although the appellee requested that the pertinent portions of Exhibit A be printed as part of the Appendix since pertinent portions were read into the transcript. No such designation was made and a copy of said exhibit important with respect to the appellee preparing his brief has not been made available to him by the appellant.

The appellant has also failed to comply with Rule 30 with respect to the determination of the contents of the Appendix.

Although the appellee herein has designated parts of the record which is made part of the Appendix, the appellant has ignored those designations and printed the Appendix as it sees fit. They left out of the appendix pages 89, 93, 101, 103, 108, 125, 128, 130, 131, 133, 135, 136, 137, 141, 144, 145 and part of page 569.

Thus, pertinent portions of Exhibit A have been excluded from the Record on Appeal. In fact, the court reporter did



*Affidavit of Joseph P. Napoli*

not include the portions of Exhibit A read into evidence in the transcript of the within action. Until these matters are determined the appellee will be greatly prejudiced if this appeal proceeds without the correction of these matters.

WHEREFORE, your deponent respectfully requests that the within motion be granted and that the time for the appellee to serve and file his brief be extended until the Appendix is properly corrected.

(Sworn to by Joseph P. Napoli on May 28, 1974.)

*Donald Graff—for People—Direct*

**Transcript of Proceedings**

[89] Q. How do you know it was Selma's voice? A. Because I know her yell.

Q. You know her yell? A. Yes.

Q. How did she yell that time? A. Well, I can't do it.

Q. You cannot do it?

The Court: All right.

*By Mr. McCabe:*

Q. That was a girl's yell; is that right? A. What?

Q. That was a girl's yell and you can't do it; is that right? A. Yes.

Q. Now, when you heard that yell, you woke up? A. Yes.

Q. You opened your eyes and looked around the room? A. Yes.

Q. Did you see anything happening, Donald? A. Well, she was—he was hitting her.

Q. Someone was hitting Selma? A. Yes.

Q. Is that right, Donald? A. Yes.

Q. Was Selma at that time standing up or in bed? A. She was in bed.

Q. In bed? And this person who was hitting her, was it a man or a woman? A. A man.

Q. Was he in bed or on the floor as he hit your sister? A. He was leaning over the bed.

Q. And what did you see him doing, Donald? How was he hitting your sister? A. Well, you know, with his hand going like that (indicating).

*Donald Graff—for People—Direct*

Q. You are indicating— A. (Continuing) And wrestling (sic) with her.

Q. He was raising his arm and bringing it down (indicating)? A. Yes, and then he start wrestling (sic) with her.

\* \* \* \* \*

[93] Q. What kind of a looking boy or man was he? A. What do you mean?

Q. Well, you tell me about him. I do not mean anything; I want you to tell me what you know. Donald, tell me, what did you see in the room at the time your sister was yelling for you? A. Well, he was hitting her, you know, and wrestling with her.

Q. Was she out of bed at the time or was she in bed? A. Well, she was in bed.

Q. Was this a man that was doing this to your sister? A. A man. You know. I don't know how old he was. He was probably in the twenties.

Q. Probably in his twenties? A. Yes.

Q. How long was this going on in the bedroom? A. I don't know exactly. About—altogether, counting the second time, it was about, just about three minutes.

Q. You say this man— A. Three or less. I don't know how long. Not *farrer* than five minutes.

Q. You say this man left the room and came back again? A. Yes.

Q. And where did he go when he left the room? A. He went in the other room, see, and when I first—

Q. What other room was that, the living room or the other bedroom? A. No, the other bedroom. See, the light was—rather, the window was open.

Q. Where was the window open? A. What do you mean? In the bedroom.

*Donald Graff—for People—Direct*

Q. The other bedroom or in the bedroom you were in?  
A. No. The other bedroom. That's when I was going to call Mr. Newdorf, you know, when I was going to open the door.

\* \* \* \* \*

[101] Q. And you stood in bed? A. Yes.

Q. Is that right? A. Yes, then you see—

The Court: Wait a moment; let him answer.

The Witness: My head was sticking out so when he came by he saw my head, and every time that he was hitting Selma he turned his head and that is how I saw his head, and when he was walking out I saw his head.

*By Mr. McCabe:*

Q. When was it that he hit you, Donald? A. The second time while he was going out, my head was stuck out, see, so he hit me.

Q. You remember talking to me about this case, don't you, Donald? A. Yes.

Q. Judge Goldstein asked the question as to what the man looked like. Will you tell the Judge what he looked like? A. Well, in height he was about five foot, five, or five foot—you know, around that.

Q. How tall am I, Donald? You have seen me. A. Five foot—wait, don't lean down.

Q. I will stand up. A. About five foot ten.

Q. More than that. Tell me this, Donald, did you see anything else about that man? A. Well, he had like a reddish color.



*Donald Graff—for People—Cross*

Q. Anything else? A. No; he wore a blue suit, and maybe, I always said maybe a blue suit.

Q. You are not sure of that? A. No, I am not sure of that.

Q. You don't know how long it was after you got hit on the head that Mr. Newdorf came in? A. No, I don't know how long.

\* \* \* \* \*

[103] The Court: Will you step up here, all of you?

(Mr. McCabe and defense counsel confer with the Court.)

The Court: All right, Mr. Healy, you may proceed.

*Cross Examination by Mr. Healy:*

Q. Now, Donald, will you try to talk up as loud as you can like a good boy, so we can all hear you? A. Yes.

Q. Was the man who was hitting Selma a white man? A. Yes, he had a red skin, a little red skin like that (indicating).

Q. And the police asked you some questions about what happened there, didn't they? A. Yes, the detective asked me questions.

Q. The detectives asked you if the man who was hitting your sister was a white man, and you said to the detectives that it was a white man, didn't you? A. Yes.

*By the Court:*

Q. What do you mean when you said "like that"? A. Like that (indicating the official reporter).

*Donald Graff—for People—Cross*

Q. You mean like what? A. Like his face.

Q. Like his face? A. Yes.

Mr. Healy: Will your Honor take judicial notice that the official reporter is a white man?

The Court: With a flushed face, I would say.

Mr. Healy: Shall I proceed?

The Court: Yes.

\* \* \* \* \*

[105] Q. Well, you remember where you got hit, what part of your head? A. No.

Q. Where were you when you got hit? Were you standing up? A. When I got hit I was lying in bed.

Q. When the man hit you, was it in your head or was it on some part of your body? A. On my head.

Q. And did you jump up out of bed after the man hit you? A. After he hit me, he went out, and then I went out of bed.

Q. And you got up out of the bed, is that right? A. Yes.

Q. And when you got up out of the bed, where did you go? A. I went to the door to answer it.

Q. And you walked from the bed to the door, did you? A. Yes.

Q. Did you open the door? A. Yes.

Q. There was not a lock on that door, was there? A. Well, you have to turn the knob.

Q. Do you open the door by just turning a knob, or do you have to turn the latch that is on it? A. A knob.

Q. You opened the door all right? A. Yes.

Q. You did not have any trouble in opening the door, did you? A. No.

*Donald Graff—for People—Cross*

Q. Were you bleeding then? A. Yes, I think so.

Q. Are you sure? A. I probably was because he hit me.

Q. And before you went to the door, you called out somebody's name, is that right? A. (No answer.)

Q. Did you call out the names of the people— A. Newdorf.

Q. Newdorf? A. Yes.

\* \* \* \* \*

[107] Q. What kind of a hat do you wear? A. Well, a plain hat with earmuffs, but he didn't wear that kind of a hat.

Q. Did you see his hat fall off at any time? A. What is that? No.

Q. What color suit did he have on? A. Blue.

Q. No doubt about that? A. No.

Q. You got a good look at the suit, didn't you? A. Yes, with white stripes.

Q. Even had white stripes in it? A. Yes, sir.

Q. You could see the white stripes in the suit? A. Like that what you are wearing; that is a blue suit.

Q. I mean, there was light enough in the room for you to see the color of his suit, wasn't it? A. Yes, sir.

Q. And there was light enough in the room for you to see the white stripes, is that right? A. Yes.

Q. Now, did he have a shirt on, Donald, a collar and tie? A. Yes.

Q. Was it a white shirt? A. Yes, white.

Q. A white shirt? A. Yes.

Q. Do you remember what color the tie was? A. No.

Q. Did he have a vest on like I have on? A. No.

Q. Did he have a sweater on? A. You could not see

*Donald Graff—for People—Cross*

his vest, see, because his coat was like that, you know, this part, you know, across was like that.

Q. Indicating his coat was buttoned across the chest with the button up at the top? A. No, not up to the top.

Q. You mean, the top button on the coat? A. You know, buttoned down like you are wearing it.

[108] Q. And you could see the white shirt up above the coat, couldn't you? A. Yes, sir.

Q. You could see that he had a collar on? A. Yes, sir.

Q. And did he have a tie on? A. No, he had a plain tie, a long one.

Q. What? A. He had one like yours.

Q. What color was it? A. I don't know; I don't know about the color.

Q. As he was walking out, did you see his shoes? A. His shoes?

Q. Yes. A. I think—I forgot, only I told it once but I forgot.

Q. You think you told who once? A. I don't know; the detectives.

Q. Did you tell the detectives that you saw what color his shoes were, whether they were— A. I forget already.

Q. Do you remember now whether the man had on brown shoes or black shoes? A. No.

Q. When you saw the man going out, did you see anything in his hand? A. No.

Q. You told us that you talked with the detectives, is that right? A. Yes.

Q. And Mr. McCabe has told you that you spoke to him sometime? A. Yes, I did.



*Donald Graff—for People—Redirect*

Q. And did you speak to some other men from the District Attorney's Office? A. Yes.

Mr. Healy: May I at this time ask that counsel for the defense be supplied with any statements that this witness has made to either the police or the District Attorney, so that your Honor may look at them, and I may have them?

Mr. McCabe: You may have them, Judge Healy.

\* \* \* \* \*

*Redirect Examination by Mr. McCabe:*

\* \* \* \* \*

[125] Q. What is that? A. Yes, I cannot see exactly too good, of course, but I mean, I could see better with them than without.

Q. Have you got your glasses with you? A. No.

Q. Where are they? A. They are in my house.

Q. When do you use the glasses? When do you wear them now? A. Well, I wear them for reading, and sometimes for writing.

Q. For reading and writing? A. Yes.

Q. Could you read without the glasses? A. Yes, I could read without the glasses, but the book, it is about this close, like that (indicating). I don't mean that far (indicating). I don't think I can see; I don't know.

Mr. McCabe: May the record indicate at this point that the witness has indicated a point at which he could read without glasses and then has indicated by extending his hand upward a few more inches, that he could not read at that additional distance?

*Donald Graff—for People—Redirect*

*By the Court:*

Q. If you took a newspaper, could you read a newspaper without the glasses? A. Yes.

Q. When do you wear the glasses, then? A. I wear them once in a while.

Q. Do you wear them in school? A. Sometimes.

Q. Not steadily? A. Not very much.

Q. How long have you been wearing glasses, Donald? A. Well, these glasses, my new glasses, I have been wearing about two years.

Q. About two years? A. Yes.

Q. And you use them only for reading? A. Reading and writing.

\* \* \* \* \*

[128] Q. You told us that this man who was in the room had a reddish skin? A. Yes.

Q. Do you know whether he needed a shave or not, Donald? A. Well, I don't know.

Q. Did you ever tell anybody that he had a reddish skin and needed a shave? A. Yes, I told the F. B. I. man.

Q. An F. B. I. man? A. Yes.

Q. Some man that talked to you about the matter? A. Yes.

*By the Court:*

Q. Do you know what an F. B. I. man is if you see him? A. Yes.

Q. Did he tell you that he was an F. B. I. man, or did you know it? A. Well, he told me.

The Court: All right.

*Donald Graff—for People—Recross*

*By Mr. McCabe:*

Q. You did not think that up, Donald? A. What?

Q. That they were F. B. I. men? A. No, they told me.

Q. Was one of them Mr. Rooney? A. Yes.

Q. Police detectives, weren't they? A. Yes; I know they were detectives.

Q. They were detectives? A. Yes.

Q. And this man, you at one time said he had a reddish skin and needed a shave; is that right? A. Yes, I once said that.

Q. Do you know, actually, Donald, without saying things that come into your mind, what kind of clothing the man wore? A. I don't know what kind of clothing he wore.

\* \* \* \* \*

[130] Q. You don't know? Was that blood dry that was on your shirt or wet? A. I don't know.

Q. You don't know that either? About how far down did the blood come on the shirt, Donald? A. I don't know.

Q. You say you were in the hospital several days after you were hit on the head? A. What do you mean? I don't know.

Q. Were you there at least two days in Kings County Hospital; is that right? A. Yes.

Mr. McCabe: That's all.

*Recross Examination by Mr. Healy:*

Q. Donald, when you left here yesterday did you talk to the District Attorney after you left? A. Yes.

*Donald Graff—for People—Recross*

Q. You did? And did the District Attorney ask you some questions about what you had said on the stand? A. Well, I don't know, but he asked me questions.

Q. Did you talk to some detectives? A. Yes.

Q. How long were you talking to the detectives after you left the stand yesterday, Donald? A. I don't know.

Q. Did they go home with you? A. No.

Q. Whom did you go home with yesterday? A. My brother-in-law.

Q. And he talked to you about the case, did he? A. What?

Q. He talked about what you testified to; is that right? A. Yes.

Q. He was in the court room yesterday when you were testifying; isn't that right? A. Yes.

Q. When you were testifying on the stand, you were watching him; is that right?

[131] Mr. McCabe: I object to that, if the Court please.

*By Mr. Healy:*

Q. Were you? A. I don't know.

The Court: I will allow it.

The Witness: I don't know.

*By Mr. Healy:*

Q. Did he tell you that some of the things you said on the stand yesterday weren't right? A. I don't know.

Q. You don't know whether he said that to you or not? A. No.



*Donald Graff—for People—Recross*

Q. Did he tell you that what you said on the stand yesterday, maybe you were wrong about it? A. Well, I thought it over to myself.

Q. Did he ask you to think it over? A. Yes. He told me to think it over and I thought it by myself.

Q. What did he ask you to think over? A. Well, about, you know—I don't know; I don't remember what he told me to think over.

Q. What? A. I don't remember what he told me.

Q. Well, when was it he told you to think it over? A. Yesterday.

Q. Here in the court? A. No.

Q. Going home? A. Yes.

Q. And did he talk to you about thinking it over when you were going home from the court? A. Yes.

Q. And then when you got home yesterday, he went into your house with you, did he? A. Well, he lives with me.

\* \* \* \* \*

[133] Q. And you looked at the man there in the school, didn't you? A. Yes.

Q. Did you have your glasses on that day? A. No.

Q. What? A. No.

Q. You didn't have your glasses on that day in school; right? A. No.

Q. Do you wear your glasses every day to school or only some days? A. Some days.

Q. Some days you go to school and read and write and don't have glasses on; isn't that right? A. Well, sometimes I go to school with them. But most of the time I don't.

Q. And the day the detective brought the defendant to school, you didn't have your glasses, did you? A. No.

*Donald Graff—for People—Recross*

Mr. McCabe: If the Court please, may I object at this time to this line of cross-examination, with Judge Healy's permission, on the ground that there is no contention by the People that this witness can identify this defendant or that he ever has?

Mr. Healy: I didn't think there was any direct proof. I wanted the jury to know that, Judge. That will curtail my cross-examination to a great extent. Thank you, Mr. McCabe.

Mr. McCabe: Thank you, Judge.

The Court: All right.

*By Mr. Healy:*

Q. Donald, you saw me cross-examining you yesterday here, talking to you; right? A. Yes.

Q. And do you remember that I asked you yesterday that you got a good look at the suit, didn't

\* \* \* \* \*

[135] *By Mr. Healy:*

Q. Well, do you remember telling me yesterday that there was light enough in the room, Donald, so that you could see the color of the suit? A. No, there wasn't light enough.

Q. Did you tell me yesterday that there was light enough in the room? A. I know. Well, it just came to me, that's all. It just came like that. I was nervous yesterday, anyway.

Q. And after you spoke to your uncle—it is Mr. Levine?

Mr. Healy: Is that his name?

Mr. McCabe: Brother-in-law.

*Donald Graff—for People—Recross*

*By Mr. Healy:*

Q. Brother-in-law? A. Yes.

Q. Then you weren't so nervous; is that right? A. No, I wasn't nervous.

Q. Did Mr. Levine tell you the man didn't have a blue suit on? A. I was a little nervous, not so much.

Q. Did Mr. Levine tell you the man didn't have a blue suit on? A. No, he didn't tell me anything.

Q. Did he tell you to think it over and be sure whether he had a blue suit on or not? A. Yes, he told me to think it over.

Q. He told you to think it over? A. Yes.

Q. And was it after he told you to think it over that you did think it over? A. Yes.

Q. Well, what color suit did he have on? A. I don't know.

Q. You don't know at all? A. No.

[136] Q. You couldn't remember now? A. No, I couldn't remember.

Q. All right. Now, do you remember telling me yesterday that there was light enough in the room for you to even see the white stripes in the suit? Do you remember saying that? A. Yes, I remember saying that. But I don't think so now.

Q. You thought it over now since last night? A. Yes.

Q. Since you talked to your brother-in-law? A. Yes.

Q. You are not sure of that now; is that right? A. Yes.

Q. Whom else did you talk to last night besides your brother-in-law? A. Well, my neighbor.

Q. What's her name? A. Mrs. Newdorf.

Q. Mrs. who? A. Newdorf.

*Donald Graff—for People—Recross*

Q. Mrs. Newdorf? Was that the lady who was standing right beside you yesterday while you were on the stand?

A. Yes.

Q. What? A. Yes.

Q. Did she tell you that the man didn't have a blue suit on? A. No, she didn't tell me anything.

Q. Did she tell you to be sure whether or not the man had a blue suit on, to think it over? A. No, she didn't tell me that.

Q. Well, did the man have a shirt on, Donald? A. Yes, he had a white shirt.

Q. He had a white shirt? Do you remember how his coat was buttoned? A. I don't know.

Q. You don't know? A. No. I don't know if he had a coat on.

Q. Do you remember telling me yesterday that he did have a coat on? A. Yes, I know.

Q. What? A. Yes, I remember telling you.

[137] Q. Did Mr. Levine speak to you last night about whether he had a coat on or not? A. Say that over again.

Q. Did Mr. Levine tell you last night as to whether or not the man had a coat on? A. No. He just told me to think it over. He didn't—

Q. When he said "Think it over," what did you say to him? A. I said, "All right, I'll think it over."

Q. You told the police, when they examined you the first time, how he was dressed, didn't you? A. Yes. I told them how he was dressed, but that was just coming out of my mind.

Q. Now, the day after this happened in your house, you talked to the police, didn't you? A. Yes, I talked to the police.



*Donald Graff—for People—Recross*

Q. And you talked to the District Attorney; right? A. Yes.

Q. And— A. When I was in the hospital I talked to him.

Q. And you told them how the man was dressed at that time, didn't you? A. Yes.

Q. And when you told the police on April 21 how the man was dressed, had you thought it over? A. Well, no.

Q. Is your mind clearer this morning than it was on April 21? A. I don't know.

Q. Well, did anybody help you to think better today? A. Yes.

Q. Who was it? A. My brother-in-law.

Q. Your brother-in-law? What did he do to help you think better? A. Well, I don't know.

Q. What? A. I don't know exactly.

Q. Well, did he give you a few hints and so forth? A. I don't know.

\* \* \* \* \*

[141] *By the Court:*

Q. Who were you looking at while Mr. Healy was asking you questions, Donald? A. I was looking at him and looking around.

Q. Judge Healy is a good-looking man, is he not? A. I don't know.

*By Mr. Healy:*

Q. He is not as good looking as Judge Goldstein, is he?

The Court: Of course not.

A. No.

*Donald Graff—for People—Recross*

*By Mr. Healy:*

Q. Now, were you in class, Donald, when they brought the defendant over to the school? A. Yes.

Q. What time of the day was it? A. Oh, I think it was about—the class was going to be dismissed. It was near twelve o'clock.

Q. Twelve o'clock at noon? A. Yes. It was near that.

Q. There were some detectives there; is that right? A. Yes.

Q. Well, you remember yesterday what happened in the room, didn't you? A. I remember— Wait. Say that over again.

Q. I say you remembered yesterday what happened in the room that night? A. Yesterday? What do you mean, I remembered?

Q. You told us yesterday what happened in the room, about the man hitting you in the head and hitting your— A. Yes.

Q. You remembered that, didn't you? A. Yes.

\* \* \* \* \*

[144] don't know the dates that I was in the hospital. But I know it was on April.

Q. Well, it was a couple of days after this happened; is that right? A. What?

Q. A couple of days after you were hit on the head you were still in the hospital; is that right, Donald? A. Yes. I was in the hospital about two days.

Q. Did the detectives bring some other men over to you, Donald? A. Yes, they brought a few men over.

Q. And asked you to look at them; is that right? A. Yes.

*Donald Graff—for People—Recross*

Q. And they asked you whether or not you could identify these other men; is that right? A. Yes.

Q. You told them you couldn't; is that right? A. Yes.

Q. How many different men did the detectives bring over to you, Donald? A. I don't know.

Q. What? A. I don't know.

Q. Ten? A. I don't know.

Q. More than ten? A. I don't know. I don't know how much they brought over.

Q. Five? A. I don't know.

Q. You don't know how many? A. No.

Q. Did they bring them to the school? A. Well, they brought a couple of them into the school. I don't know how much.

Q. Were they colored men, the men that they brought to you? A. I don't know.

Q. You don't remember? A. No, I don't remember.

Q. Did they bring any colored men? A. Well, yes.

Q. Besides this man? A. I don't know.

[145] Q. Did they bring tall men? A. I think so, but not exactly. I don't know.

Q. Well, now, did your brother-in-law tell you last night that you were mistaken about the size of the man? A. No, he didn't—I think so, I don't know.

Q. You don't know whether he did or not? A. Maybe.

Q. Maybe he did?

Mr. Healy: I think that's all, Judge Goldstein.  
Thank you.

The Court: Anything else, Mr. McCabe?

Mr. McCabe: I think not, your Honor.

*Dr. Everett Corradini—for People—Recalled—Direct*  
*William S. Perlman—for People—Cross*

DR. EVERETT CORRADINI, recalled as a witness on behalf of the People, and having been previously duly sworn, testified further as follows:

*Direct Examination by Mr. McCabe:*

Q. Doctor, you testified here yesterday concerning Selma Graff? A. Yes.

Q. Do you recall treating a Donald Graff on April 20, 1947? A. I do.

Q. And where was it and what time that you first saw Donald Graff? A. I saw him in Kings County Hospital approximately four-thirty in the morning.

Q. Did you do something for Donald? Did you also make an examination of him? A. I did.

Q. Tell us what your examination disclosed, Doctor, and what you did for him?

\* \* \* \* \*

WILLIAM S. PERLMAN

*Cross Examination by Mr. Healy:*

\* \* \* \* \*

[569] Q. Did you ask the defendant if he had been beaten?

Mr. McCabe: That is objected to as repetitious.

The Witness: I did not.

Mr. McCabe: Just a moment.

The Witness: I did not, nor did he tell me that he was.



*William S. Perlman—for People—Cross*

*By Mr. Healy:*

Q. Nor did he tell you that anyone had used threats on him; is that correct? A. He did not tell me that. He made no complaint—

Q. You see, Mr. Perlman— A. All right.

Q. I am trying to be as brief as possible. A. All right, I will help you.

Q. You saw him limping on the street; is that right? A. I did.

Q. And you remembered specifically that he was limping with his left leg; is that right? A. Definitely so.

Q. Did you at any time, Mr. Perlman, after you had seen him limp on his left leg, ask him to put his leg or his foot on a chair and lift his trousers so that you could see his left leg? A. I did not.

Q. Did you at any time see bruises and burns and marks upon his left leg; just yes or no? A. No, sir.

Q. Did you at any time see the fleshy part of the right leg of the defendant? A. No, sir.

Q. Do you remember how the defendant was dressed, Mr. Perlman, in the station house? A. Yes, I do.

\* \* \* \* \*



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Mrs. S. Carter

Harry Lipsig